



**CODE COMPLIANCE
SPECIAL MAGISTRATE HEARING**
Special Magistrate, Jack Bridges
Marathon Council Chambers
9805 Overseas Highway, Marathon
Wednesday, February 20, 2019 at 2:00 P.M.
Action Minutes

A. CALL TO ORDER

The Code Compliance Special Magistrate Hearing of February 20, 2019, was called to Order by the Special Magistrate, Jack Bridges at 2:00 P.M., at the Marathon Council Chambers, 9805 Overseas Hwy., Marathon, Florida.

Staff Present:

Growth Management Director/Building Official Douglas Lewis
Code Admin/Recording Secretary Maria Thorley
Code Compliance Officer Patti Childress
Code Compliance Officer Cody Ward
City Attorney David Migut
Sr. Planner Brian Shea

Also in attendance were members of the public.

B. PLEDGE OF ALLEGIANCE - The Pledge of Allegiance was recited.

C. ADDITIONS/DELETIONS/CORRECTIONS/ANNOUNCEMENTS

DELETIONS:

The following cases were withdrawn by compliance:

2. C2018-0136	5. C2017-0337
4. C2018-0032	7. C2018-0412

D. APPROVAL OF AGENDA AND MINUTES

- Special Magistrate Bridges approved the agenda and the minutes of January 16, 2019 hearing.

E. SWEARING IN OF WITNESSES TO TESTIFY

- Special Magistrate Bridges called for witnesses to be sworn in and administered the Oath.

F. NOTICES

- Notices were read into the record.
- There were no Ex-parte Communications.

G. CASES FOR PUBLIC HEARING:

Code Officer, Cody Ward

9. C2017-0308 (NEW CASE/STOP WORK ORDER)

CONTINUED FROM LAST HEARING 1/16/19)

Guy Moreau

459 Margate Dr., Marathon, FL (RE#00329300-000000)

The Respondent was present at the hearing and sworn in, was properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak.

Attorney Nicholas Mulick, who represented the Respondent in this case, spoke on his behalf and asked to dismiss the case since the Respondent paid Citation No. 3192, in the amount of \$500 (Exhibit C, Pg. 7 of Pg. 11) and stated the City cannot turn around and fine his client again under the same charges.

Migut pointed out to Section 10-8 of City Code regarding the maximum fine of \$500, that is a limited amount in the State of Florida, which is different than any provision in the code and it does not prevent the City from imposing other charges.

Special Magistrate Bridges denied the motion to dismiss the case, just for purpose of the hearing and asked to hear the case to the end, before he made a final decision.

Special Magistrate Bridges suggested the following to the attorneys:

- Attorney Mulick to submit his arguments in writing within thirty days.
- Attorney Migut to reply within thirty days.
- Attorney Mulick to follow-up with a response within fifteen days after Attorney Migut replies.

Brian Shea, Senior Planner was called to testify.

City Attorney Migut asked Brian Shea questions regarding his qualifications as a Senior Planner, and concluded that Mr. Shea is an expert in the field of the City of Marathon Land Development Regulations (LDR's).

Attorney Mulick crossed-examined Mr. Shea regarding native vegetation identification and mitigation fees for removal/replacement of trees.

Mr. Shea explained how the City code section table works, regarding native removal and mitigation.

Special Magistrate Bridges asked Mr. Shea a question regarding tree removals.

Attorney Mulick called Guy Moreau (the "Respondent") to testify. Mr. Moreau explained that when this incident happened, he was out of town due to Hurricane Irma.

Attorney Mulick introduced into evidence, Respondent's Exhibit A and B (photos taken September 28, 2017).

Mr. Moreau stated he did not authorized anyone to remove any native trees from his property.

City Attorney Migut crossed-examined Mr. Moreau, regarding Exhibit A and B photos, that revealed potential removal of the native trees and clearing of the lot.

Attorney Mulick crossed-examined Code Officer Cody Ward regarding Exhibit F, Vegetation Survey.

There were no further questions.

CLOSING ARGUMENT: Special Magistrate Bridges stated that although, he thinks the land was cleared by somebody; unfortunately, he could not tell from the photo in Exhibit D Page 2, what were native trees or not; therefore, he could not make a findings based on whether those trees were removed by human, or by the storm. In conclusion, the motion that was denied to dismiss, was moved and the final decision was to acquit the Respondent of the charges.

Code Officer, Cody Ward

3. C2018-0432 (NEW CASE)

Marathon H M A Inc. C/O Altus Group
83rd St, Marathon (RE#: 00349020-000000)

Based on the evidence and testimony that were presented, the Respondent have violated Section 22-24 of the City of Marathon Code, as set forth in the Notice of Violation/Notice of Hearing served upon the Respondent, by having high grass and weeds in excess of 18” inches over a substantial portion of the Property.

Code Compliance Officer, Cody Ward performed an inspection on January 10, 2019, followed by subsequent inspection and determined the violation has not been corrected and no response from the Respondent.

Exhibits A through D were entered and accepted into evidence by Special Magistrate Bridges.

The Respondent was not present at the hearing, but was properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak.

RECOMMENDATION(S): The Special Magistrate heard the testimony and a Findings of Fact, Conclusion of Law and Order was entered, finding the property in violation of the stated code and ordered the Respondents to mow/trim the Property and maintain as needed, within thirty (30) days starting from the date of February 21, 2019. These violations are hereby declared a serious threat to public health, safety, and welfare; thereby, authorizing the City Manager to make necessary corrections to bring the Property into compliance; to pay an Administrative Fee in the amount of Three Hundred Dollars (\$300.00) within thirty (30) days, starting from the date of February 21, 2019. In the event the violation(s) is/are not corrected by the date set for compliance, March 23, 2019 Respondent shall pay a fine in the amount of One Hundred Dollars (\$100.00) per day, which shall accrue for each day the violation continues to exist past the compliance date set forth herein.

Code Officer, Cody Ward

6. C2018-0383 (UNSAFE STRUCTURE)

Sun Key Real Estate LLC
John F Demarco, Sr., Registered Agent
181 109th St., Marathon, FL (RE#00343550-000000)

Based on the evidence and testimony that were presented, the Respondent have violated Section 34-28 of the City of Marathon Code, as set forth in the Notice of Violation/Notice of Hearing served upon the Respondent, by having a damaged air intake pipe (candy cane) and not being maintained.

The Utility Department sent certified mailings on February 14, 2018 and May 21, 2018 advising the property owner of the issue and requesting it be corrected; however, there was no response from the Respondent. Subsequent inspections by the Utility Department showed the air intake pipe remained broken; therefore, said violation remains uncorrected.

Exhibits A through D were entered and accepted into evidence by Special Magistrate Bridges.

The Respondent was not present at the hearing, but was properly noticed of the hearing by certified mail, and afforded the opportunity to appear and speak.

RECOMMENDATION(S): The Special Magistrate heard the testimony and a Findings of Fact, Conclusion of Law and Order was entered, finding the property in violation of the stated code and ordered the Respondents to make necessary repairs and schedule an inspection with the Utility Department within thirty (30) days starting from the date of February 21, 2019; to pay an Administrative Fee in the amount of Three Hundred Dollars (\$300.00) within thirty (30) days, starting from the date of February 21, 2019. In the event the violation(s) is/are not corrected by the date set for compliance, March 23, 2019 Respondent shall pay a fine in the amount of One Hundred Dollars (\$100.00) per day, which shall accrue for each day the violation continues to exist past the compliance date set forth herein.

H. OLD BUSINESS - None

I. NEW BUSINESS - None

J. DISCUSSION ITEMS - None

K. ADJOURNMENT - With no further business to come before the Special Magistrate the meeting was adjourned 3:45 P.M.

The above represents a summary of the Code Compliance Hearing held February 20, 2019. This is not a verbatim record. A recorded disc is available upon request.

These minutes were reviewed and approved by Jack Bridges, Special Magistrate.



Jack Bridges, Special Magistrate

04/17/2019

Date